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August 29, 2024

Mr. Christopher Martin
Supervisor
Baldwin Township
1119 Monument Road
Tawas City, MI 48763

Re: Proposal for Professional Services: Baldwin Township Iron Belle Trail

Dear Mr. Martin,

The C2AE team sees and understands Baldwin Township's vision: A trail network that will grow tourism and enhance the quality of life in your community.

In our 55+ years of engineering and architecture, we have learned that trail projects are special. Trails are a powerful placemaking tool. They turn communities into hometowns. They literally connect residents, businesses, and neighboring communities to each other and to nature. We have seen residents and even separate municipalities rally around visions like yours, and it is always a joy to bring them to life.

As trusted trail designers with an unwavering commitment to our state, a deep focus on regional economic development, and a powerful record of obtaining project funding, C2AE is well-suited to partner with Baldwin Township. Though our practice has brought us all over the country and even the globe, much of our trail experience is in Michigan – in dozens of waterfront communities with economies tied to placemaking and outdoor tourism. C2AE will draw on this experience as we navigate the conceptual design of the Ray Conroy Utility Path extension for Baldwin Township.

Project Understanding

C2AE understands that Baldwin Township desires to hire a professional service firm for the development of final design, engineers' opinion of probable construction cost, construction documents, bidding services, and construction administration for a section of the Iron Belle Trail in the Township. This project would extend the existing trail from its current terminus at Tawas Beach Road easterly/northeasterly along US 23 for approximately 8.0 miles to 650 feet northeast of E. Point Road.

Scope

C2AE will assist the Township in navigating a successful trail planning, design, and construction process. We will develop a design that focuses on safety and trail standards as defined by the American Association of State Highway Transportation Officials (AASHTO) and is eligible for grant funding opportunities. We will also support the Township with the preparation of construction documents, provide bidding services, and provide construction administration services as outlined below.

1. Project Kickoff Meeting:
 - a. C2AE will conduct a virtual project kickoff meeting with all Baldwin Township stakeholders and C2AE design team members. The purpose of the meeting is to confirm everyone's expectations regarding the project process, establish lines of communication, confirm the schedule, etc.

2. Pre-Design Tasks:
 - a. C2AE will engage a subconsultant, Ayres Geospatial, to perform aerial photogrammetry and mapping (LiDAR) and field survey. All survey work completed within the MDOT right of way will comply with MDOT requirements for accuracy and information. Survey work will be completed between the project limits provided by the Township, being Tawas Beach Road to 650-feet northeast of E. Point Road and 125 feet each side of the US-23 centerline. We have included a budget amount for survey work within our contract fee.
 - b. C2AE will engage subconsultants to perform Wetlands Delineation (GEI Consultants), Rare & Endangered Species Evaluation (GEI Consultants), and NEPA investigations (Stantec). These evaluation and investigations will be completed between the project limits provided by the Township, being Tawas Beach Road to 650-feet northeast of E. Point Road and 125 feet each side of the US-23 centerline
 - c. Utilizing available information, C2AE will develop base plans for use during development of the trail routing and costing.

3. Conduct an Initial Visual Site Assessment
 - a. The Team will conduct an initial site assessment to visually review and document any unique features of the proposed planning corridor, as applicable, as well as to define the envisioned limits and locations for programmed improvements.
 - b. At this time, we will collectively identify and confirm any known potential impacts to development, as well as to identify and address safety and security provisions as necessary. During the assessment we will also identify any visible potential environmental concerns and/or areas that may require detailed supplemental investigations.

4. Trail Route Determination
 - a. Based on the results of site survey, wetlands delineation, and C2AEs professional judgment, the Township and C2AE will meet virtually to discuss routing options and make a determination of the route to be utilized for the development of the final trail design.

5. Final Trail Design and Cost Opinion
 - a. C2AE will develop a final trail design, which will detail the route, types of construction (separated trail, shared road, boardwalk), in the form of completed drawings for bidding. An engineer's opinion of probable construction cost will be developed from the completed design to provide an opinion of the likely construction cost.
 - b. C2AE will undertake utility coordination with utility companies to determine and resolve conflicts with existing utilities and the proposed trail design. A preliminary Utility Conflict Matrix will be developed to track areas of concern.
 - c. C2AE will identify soil boring locations and engage a subconsultant, Soils & Structures, to complete the borings and soils report. We have included a budget amount for soil boring work within our contract fee based on 10-foot-deep borings every 500 feet along the planned trail route.

- d. Preliminary Permit Evaluation: Identify any environmental features – critical dunes, wetlands, streams and buffers and identify permits that will be needed. C2AE and our subconsultants will prepare and submit the required environmental review and NEPA documentation.
 - e. Easements: C2AE will review and document existing MDOT R.O.W. or other land ownership types (easements and fee simple ownership) and evaluate the impact on the trail design. This will include working closely with MDOT staff on the interpretation and understanding of their ownership as it relates to trail development. C2AE has estimated that 10 private property easements may be required, and has included the cost to prepare 10 easement exhibits for use by the Township in securing easements in this proposal.
 - f. Furthermore, we will identify any areas requiring grading permits or easements. This effort will include developing design alternatives that work for the landowner as well as the trail user. We will prepare cost estimates and meet with individual landowners to review available options. C2AE will prepare and assist in obtaining necessary grading permits or easements outside of the current easement/ownership areas.
 - g. Preliminary Quantities and Opinion of Probable Construction Cost: Provide an itemized breakdown of estimated quantities, estimated unit costs and estimated total cost for all project components. The estimate will utilize the MDOT-required MERL software.
6. Construction Bidding Documents
- a. Special Provisions: Prepare special provisions to be used in conjunction with the 2020 MDOT (or current version) Standard Specifications for Construction to establish the quality of all materials, equipment, installation and construction.
 - b. Grade Inspection/Review Meeting: Provide the necessary plan submittals, coordinate and participate in an on-site Grade Inspection/Review meeting with representatives of the Project Team, EGLE, DNR, MDOT, affected utility companies and other interested parties.
 - c. Permits: Act as the owner's agent in preparing applicable permits involving the trail for submission to the applicable governmental agencies. Permit fees for such permits (where applicable) shall be paid for by Baldwin Township. Permits shall include Wetlands, Inland Lakes and Streams, MDOT, County Road Commission, Local Units of Government, SESC and other permits required for the trail construction.
 - d. Bidding Plans and Special Provisions: Prepare final plans and any special provisions applicable for the project. Include maintaining traffic, striping and signing plans in accordance with the Michigan Manual of Uniform Traffic Control Devices.
 - e. Updated Engineer's Opinion of Probable Construction Cost: Provide a final itemized breakdown of construction quantities and unit cost for all of the pay items used on the project.
7. Bidding Phase Services
- a. Answer bidders' questions and issue clarifications/addendums as required.
 - b. Review bidding results and assist Project Team with contractor selection process.
8. Construction Phase Services
- a. Construction Administration (exact scope of services may be adjusted based on the funding agency(ies):
 - 1) Attend and conduct a preconstruction conference to review the project with the Project Team, DNR (as applicable), Contractor, Sub-contractor(s), utility companies, MDOT (as applicable) and other interested parties. Review project schedule. Record meeting minutes and distribute.

- 2) Prepare modifications and supplementary sketches required to resolve actual field conditions encountered.
 - 3) Review shop drawings submitted by the contractor. Review product and material certifications. Maintain status of tested materials information.
 - 4) Issue instructions from the Project/Stakeholder Teams to the contractor; issue necessary interpretations and clarifications of contract documents; and prepare required change orders.
 - 5) Prepare biweekly or monthly pay estimates, depending on the funding sources.
 - 6) Attend monthly (or more frequent) progress meetings.
 - 7) Attend final project inspection with the involved stakeholders and Contractor representatives. Prepare final punch list for project completion.
 - 8) All construction documentation will be performed utilizing the current version of FieldManager Software.
 - 9) Accept, review and maintain Contractor submitted Certified Payrolls in accordance with MDOT or other agency requirements and perform wage rate interviews to verify compliance (when necessary).
- b. Construction Observation and Testing:
- 1) Provide on-site observation services based upon the type of construction work in progress; prepare daily reports; provide appropriate reports to the Project Team to monitor compliance with plans, specifications and all other contract documents.
 - 2) Engage a subconsultant to provide survey benchmarks, layout of lines, and grades as required to complete construction.
 - 3) Provide and/or coordinate field material density testing services for backfill, subgrade, base course and bituminous courses.
 - 4) Coordinate laboratory testing services for aggregate, HMA and concrete cylinders.
 - 5) Prepare Record Drawings for the project upon completion of construction.

Assumptions

1. C2AE understands that an existing 8-foot-wide trail exists for approximately 7,170 feet between Cemetery Road and Aulerich Road, this path is to be protected and utilized as is as part of the overall project deliverable.
2. Other than the 7,170 feet outlined above, the trail will be 10-foot wide of either 2" thick HMA or raised boardwalk.
3. Path extends into AuSable Township at the northern end of the alignment, and into East Tawas at the southern end of the alignment.
4. Client to pay for permit fees, and obtain easements based on easement exhibits prepared by C2AE/subconsultant.
5. 10 Easement Exhibits to be prepared by Ayres Geospatial.
6. Construction to be completed in a 6-month period.
7. Engineering fees based on an assumed construction value of \$6,000,000.
 - a. As portions of this trail are in three different municipalities, East Tawas, Baldwin Township, and AuSable Township, the assumed construction value can be divided proportionally based on the respective overall length of path in each municipality as follows:

1) East Tawas	3,970 feet of path, 11.5% of total =	\$690,000
2) Baldwin Township	27,280 feet of path, 78.8% of total =	\$4,728,000
3) AuSable Township	3,380 feet of path, 9.7% of total =	\$582,000
TOTAL		\$6,000,000

Deliverable

1. Bidding documents.
2. Itemized Engineer's Opinion of Probable Construction Costs.

Schedule

1. C2AE proposes to complete the Pre-Design and Site Assessment tasks within 90 days of authorization.
2. C2AE proposes to complete the Trail Route Assessment within 30 days of completion of the pre-design and site assessment tasks.
3. C2AE proposes to complete Trail Design and Cost Opinion within 180 days of completion of the trail route assessment.
4. C2AE proposes to complete Construction Documents within 60 days of completion of Final Trail Design and Cost Opinion.

Fee

Our fee is based on an assumed construction value of \$6,000,000 based on the construction costs awarded by AuSable Township for the section of the Iron Belle Trail in AuSable Township, immediately to the north of Baldwin Township section. Our fees are outlined as follows:

- Project Kickoff, Pre-Design Tasks, Initial Visual Assessment, Trail Route Determination Phase Services
 - Design Services Fee \$15,500 Lump Sum
 - Survey \$102,000 Lump Sum
 - Wetlands Delineation \$22,500 Lump Sum
 - SHPO Evaluation \$20,000 Lump Sum
 - Rare & endangered Species Evaluation \$10,000 Lump Sum
 - Total this phase \$170,000 Lump Sum
- Bidding Documents and Cost Opinion Phase Services
 - Design Service Fee \$235,000 Lump Sum
 - Geotechnical Investigation \$25,000 Lump Sum
 - Easement Exhibit Preparation \$10,000 Time & Materials Not-to-Exceed
 - Total this phase \$270,000 Lump Sum and T&E NTE
- Construction Documents & Bidding Phase Services
 - Design Service Fee \$17,500 Lump Sum
- Construction Phase Services (variable based on level of inspection required by funding source)
 - Construction Administration Fees \$207,500 Time & Materials, Not-to-Exceed based on full time inspection (50 hours per week) for 6-month construction time frame.

Total Fee authorized under this agreement = \$665,000

As portions of this trail are in three different municipalities, East Tawas, Baldwin Township, and AuSable Township, the authorized fee under this agreement can be divided proportionally based on the respective overall length of path in each municipality as follows:

a. East Tawas	3,970 feet of path, 11.5% of total =	\$76,475
b. Baldwin Township	27,280 feet of path, 78.8% of total =	\$524,020
c. AuSable Township	3,380 feet of path, 9.7% of total =	\$64,505
TOTAL		\$656,000

It is understood that the fee may adjust if the anticipated project budget is determined to be higher, once established at the conclusion of the Preliminary Design phase.

We have included our Standard Contract Provisions as part of our proposal. If the terms and conditions as stated are acceptable, please countersign and return one (1) copy to our office. Please do not hesitate to contact us should you have any questions or concerns, or if you need additional information.

Sincerely,
C2AE

Tony Johnson, PE
Project Manager

Roger F. Marks PE
Client Services Leader

Accepted by:

Baldwin Township

Date

C2AE Standard Owner-A/E Contract Provisions, 2024

The parties to this agreement, Capital Consultants, Inc., dba "C2AE" in Michigan and dba "Capital Consultants Architecture and Engineering" in New York, hereinafter called C2AE and "Baldwin Township" in Iosco County Michigan, hereinafter called OWNER, hereby agree to the following conditions:

- A. Scope of Services: OWNER and C2AE have agreed to a written description of services C2AE will provide to OWNER for an established compensation, hereafter referred to as "Scope of Services". Additional Services may be agreed to in writing by OWNER and C2AE in addition to the Scope of Services. Services not set forth in written agreement are specifically excluded from the scope of C2AE 's services, including any "financial advising" services. C2AE assumes no responsibility to perform any services not specifically agreed to in writing.
- B. Standard of Care: C2AE shall perform its services consistent with the professional skill, care, and timeliness ordinarily provided by professional engineers and architects practicing in circumstances of similar time and place. C2AE makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by C2AE. However, C2AE shall correct any technical accuracy deficiencies in C2AE's Instruments of Service without additional compensation.
- C. Schedule: C2AE shall ordinarily perform its services within a reasonable time. Upon OWNER's request, C2AE shall prepare and submit for OWNER approval a detailed schedule for the performance of C2AE's services. This schedule shall include reasonable allowances for review and approval times required by OWNER, performance of services by OWNER's consultants, and review and approval times required by public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in scope, character or size of the project requested by OWNER, or for delays or other causes beyond C2AE's reasonable control.
- D. Changed Conditions: If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to C2AE are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, C2AE may call for renegotiation of appropriate portions of this Agreement. C2AE shall notify OWNER of the changed conditions necessitating renegotiation, and both parties shall promptly and in good faith renegotiate this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.
- E. Payment Terms: Invoices prepared to C2AE's standard format will typically be submitted by C2AE monthly, are due upon receipt, and shall be considered past due if not paid within thirty (30) calendar days of the due date. If work is abandoned or suspended, C2AE shall be paid in full for services performed prior to receipt of written notice from OWNER of abandonment or suspension. If OWNER fails to make payments when due, C2AE may charge interest at one-and-one-half (1.5) percent or the maximum rate allowable by law, whichever is less, per month on the past due amount, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal. In addition, if OWNER fails to make payments when due or otherwise is in breach of this Agreement, C2AE may suspend performance of services when any invoice for services remains unpaid 60 days after the date of the invoice and upon five (5) calendar days' notice to OWNER. C2AE shall have no liability whatsoever to OWNER for any costs or damages as a result of such suspension caused by any breach of this Agreement by OWNER. Upon payment in full by OWNER, C2AE shall resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for C2AE to resume performance.
- F. Disputed Invoices: OWNER shall not withhold amounts from C2AE's compensation to impose a penalty or liquidated damages on C2AE, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless C2AE agrees or has been found liable for the amounts in a binding dispute resolution proceeding. If OWNER objects to any portion of an invoice, OWNER shall so notify C2AE in writing within ten (10) calendar days of receipt of the invoice. OWNER shall identify in writing the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with other payment terms of this Agreement. Any dispute over invoiced amounts due which cannot be resolved within ten (10) calendar days after presentation of invoice by direct negotiation

between the parties shall be resolved within thirty (30) calendar days in accordance with the Dispute Resolution provision of this Agreement.

G. Regulatory Compliance: C2AE shall put forth reasonable professional efforts to comply with applicable laws, codes and regulations in effect as of the date of submission to building authorities, including the Americans with Disabilities Act (ADA) which provides that alterations to a facility must be made in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to persons with disabilities. Design changes made necessary by newly enacted laws, codes and regulations after submission date shall entitle C2AE to a reasonable adjustment in the schedule and additional compensation in accordance with the Additional Services provision of this Agreement. OWNER acknowledges that the requirements of laws, codes, and regulations, including the ADA, will be subject to various and possibly contradictory interpretations. C2AE, therefore, will use its reasonable professional efforts and judgment to interpret applicable requirements and other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the project. C2AE, however, cannot and does not warrant or guarantee that OWNER's project will comply with all interpretations of all the requirements of federal, state and local laws, rules, codes, ordinances and regulations as they apply to the project.

H. Errors and Omissions and CONSULTANT's Limit of Liability: In recognition of the relative risks and benefits of the Project to both OWNER and C2AE, the risks have been allocated such that OWNER agrees, to the fullest extent permitted by law, to limit the liability of C2AE and its officers, directors, shareholders, employees, and sub-consultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of C2AE and its officers, directors, shareholders, employees, and sub-consultants shall not exceed C2AE's total fee for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

I. Consequential Damages: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither OWNER nor C2AE nor their respective officers, directors, shareholders, employees, and sub-consultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both OWNER and C2AE shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

J. Dispute Resolution: OWNER agrees that all claims, disputes, and other matters in question between the parties arising out of or relating to this Agreement or breach thereof first shall be submitted for nonbinding mediation to any one of the following, as agreed to by the parties: American Arbitration Association, American Intermediation Service, Americord, Dispute Resolution, Inc., Endispute, or Judicate. Any party hereto may initiate mediation within the time allowed for filing for arbitration as set forth below and the parties hereto agree to fully cooperate and participate in good faith to resolve the dispute(s). The cost of mediation shall be shared equally by the parties hereto. Any time expended in mediation shall not be included in calculating the time for filing arbitration. If mediation fails to resolve the claim or dispute, the matter shall be submitted to arbitration with the American Arbitration Association under the Construction Industry rules, unless the parties mutually agree otherwise or unless a plaintiff not a party hereto institutes litigation in a court of competent jurisdiction and said court takes personal jurisdiction over one of the parties hereto regarding the same subject matter as in dispute between the parties hereto. No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder, or in any other manner, any additional person not a party to this Agreement except by written consent of the parties and such consent to arbitration involving an additional person(s) shall not constitute consent to arbitration of any dispute not described therein. This Agreement to arbitrate and any agreement to arbitrate with an additional person(s) shall be specifically enforceable under the prevailing arbitration

law. The demand for arbitration shall be made within one (1) year of the date the claimant knew or should have known of the existence of the claim, dispute, or other matter. If the demand for arbitration is not effectuated within one (1) year, the claim, dispute, or other matter shall be forever barred and not mandatory. The decision rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. In the event either party makes a claim or brings action against the other party for any act arising out of the performance of the services hereunder, and the claimant fails to prove such claim or action, then the claimant shall pay all legal and other costs (including attorneys' fees) incurred by the other party in defense of such claim or action.

K. Mutual Indemnification: Neither OWNER nor C2AE shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence. C2AE agrees, to the fullest extent permitted by law, to indemnify and hold harmless OWNER, its officers, directors and employees (collectively, OWNER) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by C2AE's negligent performance of professional services under this Agreement and that of its sub-consultants or anyone for whom C2AE is legally liable. Likewise, OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless C2AE, its officers, directors, employees and sub-consultants (collectively, C2AE) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by OWNER's negligent acts in connection with the project and the acts of its contractors, subcontractors or consultants or anyone for whom OWNER is legally liable.

L. Use of Documents: All Documents (data, reports, drawings, specifications, models, and other deliverables, whether in printed or digital format) are Instruments of Service for which C2AE shall retain all common law, statutory and other reserved rights, including copyrights, whether or not the Project is completed. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of C2AE. C2AE grants to OWNER a nonexclusive license to use C2AE's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that OWNER substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The license granted under this section permits OWNER to authorize the Contractor, Construction Manager, Subcontractors, and material or equipment suppliers, as well as OWNER's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project, subject to the following limitations: (1) OWNER acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by C2AE, or for use or reuse by OWNER or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by C2AE; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by C2AE, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to C2AE or to its officers, directors, employees, and sub-consultants; (3) OWNER shall indemnify and hold harmless C2AE and its officers, directors, employees, and sub-consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by C2AE; and (4) such limited license to OWNER shall not create any rights in third parties. C2AE and OWNER warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

M. Construction Activities: Neither the professional activities of C2AE nor the presence of C2AE or its employees and sub-consultants at a project site shall relieve the Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the work in accordance with the Contract Documents and any health or safety precautions required by any regulatory agencies. C2AE and its personnel have no authority to approve construction change orders or to issue stop work orders. C2AE and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. OWNER agrees that the Contractor shall be solely responsible for jobsite safety and warrants that this intent shall be carried out in OWNER's contract with the Contractor. OWNER also agrees that OWNER and C2AE and its sub-consultants shall be included as indemnified parties by the Contractor in OWNER-Contractor agreement and shall be made

additional insureds under the Contractor's policies of general liability insurance.

N. Hazardous Materials: As used in this Agreement, the term hazardous materials shall mean any substances, including but not limited to asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the project site. Both parties acknowledge that C2AE's Scope of Services does not include any services related to the presence of any hazardous or toxic materials. In the event C2AE or any other party encounters any hazardous or toxic materials, or should it become known to C2AE that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of C2AE's services, C2AE may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until OWNER retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations. OWNER agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless C2AE, its officers, directors, employees and sub-consultants (collectively, C2AE) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of C2AE.

O. Opinions of Probable Construction Cost: When in the Scope of Services C2AE provides opinions of probable construction cost, OWNER understands that C2AE has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that C2AE's opinions of probable construction costs are made on the basis of C2AE's professional judgment and experience. C2AE makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from C2AE's opinion of probable construction cost.

P. Distribution of Digital Documents: When in the Scope of Services C2AE provides digital information extracted from its Instruments of Service to OWNER or to others on behalf of OWNER, the recipient of the information will be required to agree to C2AE's Release of Electronic Documents Agreement, including compensation for C2AE to prepare the files. Under no circumstances shall delivery of electronic files by C2AE be deemed a sale, and C2AE makes no warranties, either express or implied, of merchantability and fitness of electronic files for any particular purpose. In no event shall C2AE be liable for any loss of profit or any consequential damages as a result of OWNER's or other's use or reuse of these electronic files.

Q. Record Documents: When identified in the Scope of Services and upon completion of the work C2AE shall compile for and deliver to OWNER a reproducible set of Record Documents based upon the marked-up record drawings, addenda, change orders and other data furnished by the Contractor. These Record Documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which C2AE shall assume will be reliable, C2AE cannot and does not warrant their accuracy.

R. Design Without Construction Administration: When the Scope of Services does not include substantial involvement in project observation or review of the Contractor's performance or other construction phase services, OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation, and OWNER waives any claims against C2AE that may be in any way connected thereto. In addition, OWNER agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless C2AE, its officers, directors, employees and sub-consultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of C2AE.

S. On-site Construction Observation: When the Scope of Services includes part-time or full-time on-site project representation in order to observe the progress and quality of the work completed by the Contractor such observation is not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather is to allow C2AE, as an experienced professional, to become generally familiar with the work in progress and to determine, in general, if the work is proceeding in accordance with the Contract Documents. Such observation shall include keeping OWNER informed about the progress of the work and C2AE shall endeavor to guard OWNER against deficiencies in the work. In any case, C2AE shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents. Finally, C2AE shall not be responsible for any acts or omissions of the Contractor, sub-contractor, any entity performing any portions of the work, or any agents or employees of any of them and does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.